

**TAB 19**

1 Volume: I  
2 Pages: 1 - 127  
3 Exhibits: 11

4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF MASSACHUSETTS

6 Civil Action No.: 04-11939-JGD  
7

8 MICHAEL J. WHALON, )  
9 Plaintiff, )  
10 v. )  
11 CHRISTY'S OF CAPE COD, LLC, )  
12 Defendant. )

13 DEPOSITION of **ANNE R. KRONENBERG, RNCS**, a witness  
14 called on behalf of the Defendant, taken pursuant to  
15 the applicable provisions of the Massachusetts Rules  
16 of Civil procedure, before John F. Kielty, a Notary  
17 Public in and for the Commonwealth of Massachusetts,  
18 at the offices of Bethel Medical Group, 111 Torrey  
19 Street, Brockton, Massachusetts, on Friday, May 12,  
20 2006, commencing at 11:14 a.m.

21  
22  
23 JOHN F. KIELTY  
24 2 Garrett Place  
Plymouth, Massachusetts 02360  
(508) 759-6767

1 A. We have a signed contract.

2 Q. And at any given time, do you have one  
3 supervising physician?

4 A. Yes.

5 Q. So your supervisor is your supervisor and is  
6 not necessarily connected to the patients?

7 A. Oh, absolutely not.

8 Q. And your supervising physician wouldn't  
9 necessarily be a treating physician for a patient  
10 that you saw?

11 A. No.

12 Q. If I could, maybe we could just stipulate  
13 for the record to make this as brief as possible,  
14 but is it your recollection that you first engaged  
15 in treatment with Michael Whalon in the year 2000?

16 A. Yes.

17 Q. And you hadn't been treating him prior to  
18 the year 2000?

19 A. No.

20 Q. Starting in the year 2000 and coming to the  
21 present, can you tell us your work history, where  
22 you were working from 2000 to the present?

23 A. Oh, where --

24 Q. Yes.

1 biweekly.

2 Q. If we could, looking at the first visit on  
3 10/1, did you complete -- it appears -- is there a  
4 date on Exhibit No. 2?

5 A. October 12th. That would be the second  
6 visit.

7 Q. And that matches up with the second visit.  
8 Looking at your first visit on October 1st, it  
9 appears to me that you made multiple notations  
10 regarding OCD?

11 A. Yes.

12 Q. Did you have any questions or reach any  
13 conclusions about obsessive-compulsive disorder with  
14 Mr. Whalon?

15 A. No, it's a definite fact.

16 Q. How did you determine that to be a definite  
17 fact?

18 A. He and I agreed on that because he spent  
19 many hours cleaning his kitchen. It had to be  
20 spotless. He would go down and clean it first thing  
21 in the morning, all the counters, the floors. He  
22 would do it the last thing before he went to bed,  
23 the counters, floors, and he couldn't tolerate  
24 anything being out of order in his house. Uh-huh.

1 Q. -- that you know of? Does it have any  
2 effect to bipolar disorder that you --

3 A. No.

4 Q. -- know of? You also have a notation,  
5 "ADHD - all signs - Dr. Rudin." Could you tell us  
6 what that means, please?

7 A. "ADHD" is attention -- adult attention  
8 disorder, hyperactivity disorder. It's a -- it's a  
9 mental health problem that everyone's aware of  
10 today, ADHD. It means that -- the major part of it  
11 is inability to focus, procrastination, inability to  
12 organize your activities. Those are the basics.

13 And I referred him to Dr. Rudin to do a  
14 psychoneurology test for him, and Dr. Rudin did not  
15 think he was ADHD. He thought he was OCD, and that  
16 he had generalized anxiety disorder, which is  
17 "GSAD." And that if he continued to show signs of  
18 ADHD, that he could be retested.

19 Q. And so the record is clear, you are reading  
20 from Dr. Rudin's report?

21 A. I am.

22 Q. Which is Exhibit No. --

23 THE REPORTER: One.

24 MR. COLOMB: One.

1           A.       I have to tell you, I doubt if it -- Dr.  
2           Rudin is not that quick with his records, so but it  
3           does say that on the FAX.

4           Q.       So looking at the period of your intake of  
5           Mr. Whalon through the outside evaluation by Dr.  
6           Rudin, at this point in treating Mr. Whalon,  
7           approximately eight visits, I guess, did you draw  
8           any conclusions?

9           A.       Well, my hypothetical conclusion was he was  
10          extremely depressed, that he had PTSD, that he had  
11          generalized -- myself, generalized extreme anxiety,  
12          and that he was extremely OCD. OCD is a form of  
13          anxiety, too.

14          Q.       And do you have as you are here today or  
15          based on the notes that we have just reviewed, do  
16          you have any recollection about any discussion that  
17          you had with Mr. Whalon regarding his employment?

18          A.       Yes.

19          Q.       What do you recall in terms --

20          A.       He enjoyed --

21          Q.       -- of your discussions?

22          A.       -- working for Christy's.

23          Q.       Did you discuss with Mr. Whalon the  
24          interaction between any of the conditions that you

1 just mentioned and his employment, if there was  
2 any?

3 A. I think probably we discussed -- probably  
4 discussed his anxiety, his generalized anxiety. He  
5 was anxious driving. He had to drive quite a  
6 distance but nothing pertaining to the actual work  
7 situation.

8 Q. Did Mr. Whalon tell you if he had discussed  
9 any of these medical and psychiatric conditions that  
10 we have been talking about with any of his  
11 co-workers?

12 A. I don't -- I can't remember, but I would --  
13 just knowing him, he's quite a private person.

14 MR. COLOMB: Why don't we pause for just a  
15 moment? Let me look at the records and try to  
16 expedite this.

17 (Discussion off the record.)

18 MR. COLOMB: We will go back on.

19 BY MR. COLOMB:

20 Q. Ms. Kronenberg, I am going to ask you to  
21 look at Exhibit No. 3 again, which are your  
22 treatment records. And again, just for purposes of  
23 trying to be respectful of everybody's schedule  
24 today, I just want to highlight a couple of things

1                   And I believe -- why don't we just have all  
2 parties and the deponent if my statement has been  
3 accurate signify your agreement to that?

4                   MR. COLOMB: Your statement is accurate.

5                   THE WITNESS: Yes.

6                   MR. SCOTT: Thank you.

7                   MR. COLOMB: Could we go off the record for  
8 one more second?

9                   MR. SCOTT: Sure.

10                  (Discussion off the record.)

11                  BY MR. COLOMB:

12                  Q.         Ms. Kronenberg, if I could direct your  
13 attention to the entry for May 3, 2001, there you  
14 make reference to panic attacks --

15                  A.         Yes.

16                  Q.         -- four years ago, X four months --

17                  A.         Yes.

18                  Q.         -- went away, then April another. Do you  
19 have any recollection as to what that note  
20 reflects?

21                  A.         Yes, it's my shorthand that he had panic  
22 attacks prior to seeing me for four -- which was  
23 four years ago, and he had them for four months.

24                  And then they went away, and then this past April,

1       he had another. And he went to Dr. Gilson. He put  
2       him on Xanax, which is antianxiety medication, and  
3       then he had a --

4       Q.       Yes, there is a comment. Your next word  
5       there is "police experience." And I would ask, if  
6       you know, if you can tell us what that refers to?

7       A.       He was on the Cape for Christy's, and he  
8       didn't have his seat belt on. I guess he was  
9       putting it on, and a cop pulled him over. And he  
10      got really angry, and Mike needs to be right, so he  
11      resented that.

12      Q.       To your recollection, was there anything  
13      other than a simple seat belt violation involved in  
14      that --

15      A.       No.

16      Q.       -- encounter?

17      A.       No.

18      Q.       And you have a notation about Dr. Hooberman?

19      A.       Yeah.

20      Q.       Who is Dr. Hooberman?

21      A.       He's a bipolar doctor, also. I'm trying to  
22      get him a med consult.

23      Q.       And to your knowledge, did Mr. Whalon, ever  
24      see --

1 A. No, he didn't.

2 Q. -- Dr. Hooberman?

3 A. No, only because Dr. Hooberman was totally  
4 booked.

5 Q. You have an entry for 9/27/2001, session 8.  
6 It looks like it fills two blocks. Would you agree  
7 with that, that it is a two-block entry?

8 A. Can we find one following that?

9 Q. Sure.

10 MR. COLOMB: Why don't we go off the record  
11 for a second?

12 (Discussion off the record.)

13 MR. COLOMB: Back on.

14 BY MR. COLOMB:

15 Q. Directing your attention, Ms. Kronenberg,  
16 there is an entry dated 9/27 marked session 8.  
17 Underneath that, there is another block which does  
18 not have a date or session number but does have --

19 A. Uh-huh. (Indicates affirmatively).

20 Q. -- comments. We were speculating whether it  
21 was a continuation of the 9/27 notes --

22 A. Okay.

23 Q. -- or perhaps, is a different session. That  
24 is not significant to my question. You have a

1 statement there, "No to bipolar questions."

2 A. Yes.

3 Q. Can you tell us what that means?

4 A. It means that if there's any possible  
5 suspicion that I might have about a client, whether  
6 they're depressed or have a bipolar ingredient,  
7 there is a standard bipolar test, and it was  
8 negative for bipolar.

9 Q. And can you briefly describe to us what the  
10 test is?

11 A. It asks if there are times when you speak  
12 more rapidly, and you are more social. It's a 12-  
13 or 14-question paper.

14 Q. Okay.

15 A. I can get you a copy. I have it in my  
16 office.

17 Do you -- are you more sexually needy? Do  
18 you do impulsive things, like, calling people in the  
19 middle of the night? Do you go without sleep  
20 several nights in a row without feeling tired?

21 Q. So these are examples of the questions  
22 that --

23 A. Yes.

24 Q. -- are asked?

1 A. Those are examples.

2 Q. Are they yes or no questions?

3 A. Yes.

4 Q. And you --

5 A. And his was totally negative.

6 Q. And so you would ask the patient to answer  
7 yes or no to the various --

8 A. Uh-huh. (Indicates affirmatively).

9 Q. -- questions?

10 A. Yes.

11 Q. And based on those answers, you would reach  
12 some conclusion?

13 A. Yes, I would.

14 Q. And for Mr. Whalon, as of this particular  
15 point, you reached the conclusion that it was no to  
16 the bipolar questions?

17 A. Uh-huh. (Indicates affirmatively).

18 Q. Proceeding ahead to the next session, 11/29,  
19 session number 9, --

20 A. Uh-huh. (Indicates affirmatively).

21 Q. -- again, I just want to see that I am  
22 noting your handwriting correctly. Is it correct  
23 that on the middle of the page at the bottom it had  
24 the block, it has, question bipolar?

1           your treatment, in other words, can you recall any  
2           conversations you had with Mr. Whalon regarding his  
3           employment?

4           A.       At that time?

5           Q.       Yes.

6           A.       Up to 1/18?

7           Q.       Yes.

8           A.       Well, I have stated right here in 1/18 that  
9           he enjoyed his work.

10          Q.       Did Mr. Whalon express any issues to you,  
11           that you can recall, regarding difficulty in  
12           performing his work?

13          A.       No.

14          Q.       Did he indicate to you that any of the  
15           anxiety or any of the other conditions that we have  
16           talked about so far today impacted his ability to  
17           work?

18          A.       No.

19          Q.       Let me just change course for a minute here.  
20           During the course of treating Mr. Whalon, did you  
21           communicate with any other providers other than Dr.  
22           Rudin, who you have identified?

23          A.       Dr. Rakita.

24          Q.       Dr. Rakita. Did you communicate with any

1 Q. -- with all the --

2 A. -- ask you if I --

3 Q. -- people you see years ago.

4 A. -- had a document that I had seen him on  
5 3/6, and here it is.

6 Q. What is this document?

7 A. This is a document that I wrote on March 6,  
8 2002, that Mike was out of work due to extreme  
9 anxiety, panic attacks, and severe depression, and  
10 that he will return to work April 1, '02. And then  
11 on this paper, I wrote that he -- as I said, that he  
12 needs the doctor's excuse from work.

13 Q. So do you now believe that you saw him on  
14 March 6, --

15 A. Yes, I do.

16 Q. -- 2002? Why did you write the note, which  
17 is marked as Exhibit No. --

18 MR. COLOMB: Six.

19 THE REPORTER: Five.

20 BY MR. COLOMB:

21 Q. Exhibit No. 5, why did you write that note?

22 A. I don't know what you mean.

23 Q. Did you write the note that you are holding  
24 in your hand as --

1 A. Yes.

2 Q. Why did you write it?

3 A. Because he was -- it was an office visit.

4 Q. Did you have an expectation as to what Mr.  
5 Whalon was going to do with the note?

6 A. That's an interesting -- I don't remember,  
7 but I could assume that I wrote it so he would not  
8 have to go to work.

9 Q. Did Mr. Whalon --

10 A. No.

11 Q. -- ask you to write the note?

12 A. I can't remember. How long ago was that,  
13 four years ago? I don't remember.

14 Q. Again, I am not trying to be difficult. I  
15 am just trying to understand what you recall.

16 A. No, I can't answer that.

17 Q. Do you have any --

18 A. I'm going -- I'm going to volunteer that if  
19 I think a client is so upset he can't work, I will  
20 suggest that he not go to work, and I will write a  
21 note, yeah, of my own accord.

22 Q. Either aided by the documents you have in  
23 front of you or from your memory, do you have any  
24 recollection of Mr. Whalon's condition on March 6,

1 2002?

2 A. I believe I wrote on the prior visit that he  
3 was extremely anxious. He is extremely depressed.  
4 That he was evidencing mood swings. He was tearful.  
5 He was angry. He was overreactive, and he had some  
6 hyperarousal, which would refer to prior  
7 hyperarousal for his prior harmful events in his  
8 life of any kind.

9 Q. And that entry that you were just reading is  
10 dated 2/28?

11 A. Yes.

12 Q. And I --

13 A. And you can see I referred him to Dr.  
14 Rakita.

15 Q. Okay.

16 A. For a bipolar assessment.

17 Q. And again, I think we covered this. The  
18 2/28 entry does not make reference to employment.  
19 Do you recall discussing employment with Mr. Whalon  
20 on February 28, 2002?

21 A. I don't recall that.

22 Q. And do you recall discussing employment with  
23 Mr. Whalon on March 6, 2002?

24 A. No, I don't.

1 A. He went to his office with letters. I don't  
2 know what those -- can't remember what they were,  
3 but he was extremely anxious and was -- I wrote that  
4 I felt he was very courageous to do that.

5 Q. Okay.

6 A. And another disability for work is evidently  
7 given.

8 MR. COLOMB: I would like to ask Mr. Kielty  
9 to mark a document, if you could wait just one  
10 second?

11 (Defendant's Exhibit No. 6 was marked for  
12 identification.)

13 BY MR. COLOMB:

14 Q. So showing --

15 A. So when I say another disability for work  
16 given, it probably does refer to this.

17 Q. And when you say "this," are you referring  
18 to Exhibit No. 6, which I just placed in front of  
19 you?

20 A. Yes.

21 Q. Does Exhibit No. 6 indicate any medical  
22 condition or diagnosis of Mr. Whalon?

23 A. No.

24 Q. And would you agree that it says, "Please

1 excuse Mike Whalon from work until May 4th"?

2 A. Yes, it does.

3 Q. Why did you write that note?

4 A. He was having flashbacks. I do know that he  
5 had -- he was being evaluated. His job was being  
6 evaluated at that time, and that he was feeling --  
7 he was feeling very anxious about it because he did  
8 like working for Christy's. He liked his boss,  
9 whose, I think, name was Patrick. I don't think  
10 it's written in here. And he felt really at the  
11 time betrayed by Patrick, and that made him feel all  
12 these symptoms that he was having. And he was  
13 somewhat suicidal for a while.

14 Change that. He had some suicidal ideation,  
15 and that he decided -- he denied that he was  
16 suicidal, but he was very, very anxious. (Witness  
17 indicating.)

18 Q. Did Mr. Whalon indicate to you on March 21st  
19 that he felt betrayed by Patrick?

20 A. I can't remember what day he told me, but it  
21 was a continuous feeling of being betrayed and not  
22 believed.

23 Q. Is it possible that you learned this after  
24 March 21st?

1           absolutely no thinking that Mike was bipolar until  
2           the Christy episode.

3           Q.        Okay.

4           A.        And I want to just -- one of the reasons  
5           that -- and I don't know what day he told me this.  
6           I don't know how many times he told me this. I  
7           can't possibly answer that, but I know that he was  
8           totally -- felt, as I said before, betrayed because  
9           he is an honest man. And he felt falsely accused as  
10          taking money, and it's made him totally paranoid.  
11          And he cannot work in any store where he has to  
12          touch the cash flow, and he's tried. And it's not  
13          been possible, and that accusation has just --  
14          really has changed his life.

15          Q.        If I can ask you a few follow-up questions,  
16          first of all, did you ever ask Mr. Whalon to keep a  
17          journal?

18          A.        I can't answer that.

19          Q.        How do you know or what is the basis for  
20          your statement that Mr. Whalon is an honest man?

21          A.        Say that again?

22          Q.        What is the basis for your statement that  
23          Mr. Whalon is an honest man?

24          A.        The last word?

1 Q. -- debilitating mentally?

2 A. Physically.

3 Q. Physically?

4 A. Yeah.

5 Q. Have you had any other conversations about  
6 that lawsuit with Mr. Whalon?

7 A. No.

8 Q. Now, we have discussed a wide variety  
9 obviously of treatment and conditions today. Is it  
10 your position that Mr. Whalon suffers from bipolar  
11 disorder?

12 A. It is.

13 Q. And what do you believe is the cause of Mr.  
14 Whalon's bipolar disorder?

15 A. I think the trauma of feeling betrayed by  
16 being fired from Christy's and falsely accused.

17 Q. And what is the basis for that opinion?

18 A. I don't think he was bipolar before, and a  
19 traumatic event can cause that.

20 Q. Now, apart from the conversation you  
21 indicated earlier with your supervisor, are you  
22 aware of any other scientific support for traumatic  
23 events in one's environment --

24 A. Yeah.

1 Q. -- causing bipolar disorder?

2 A. Yeah.

3 Q. Can you elaborate on that?

4 A. Well, my own son. My own son was  
5 traumatized in a Mexican jail and falsely accused.

6 Q. And you believe that caused him to suffer --

7 A. Well, he never had --

8 Q. -- bipolar disorder?

9 A. -- it before.

10 Q. Are you aware of any other mental health  
11 condition -- before I even ask you that question,  
12 what I am trying to do here is summarize your  
13 perspective of Mr. Whalon's condition. In addition  
14 to what you have stated about bipolar disorder, is  
15 it your opinion that Mr. Whalon suffers from any  
16 other mental health conditions?

17 A. Yes.

18 Q. Can you --

19 A. He has panic attacks. He has very strong  
20 general anxiety, very acute general anxiety, which  
21 comes and goes according to his moods.

22 Q. Other conditions?

23 A. Well, he still has OCD.

24 Q. Do you believe that he suffers from

1 attention deficit disorder?

2 A. I'm not sure. I'm not sure.

3 Q. Do you think that is possible?

4 A. You know, I don't know, because attention  
5 deficit disorder is kind of a nebulous thing.

6 Q. How about posttraumatic stress disorder?

7 A. Yes.

8 Q. Mr. Whalon suffers from that?

9 A. Uh-huh. (Indicates affirmatively).

10 Q. Are there any other conditions that Mr.  
11 Whalon suffers from?

12 A. I can't think of any right now.

13 Q. Do you believe that Mr. Whalon suffered from  
14 panic disorder prior to his employment with  
15 Christy's?

16 A. Yes, I do.

17 Q. And do you believe he suffered from general  
18 anxiety --

19 A. Yes, I do.

20 Q. -- prior to his employment with Christy's?  
21 Posttraumatic stress disorder --

22 A. Yes.

23 Q. -- prior to his employment with Christy's?

24 A. Yes.

1                   THE REPORTER: I'm sorry. Miss, could you  
2 please wait for him to finish his question, please?

3 BY MR. COLOMB:

4 Q.               And do you believe the -- he needs you to  
5 wait for me to finish before agreeing, --

6 A.               Okay.

7 Q.               -- so he can get it down.

8 A.               I'm sorry.

9 Q.               I'm sorry as well. We are getting close to  
10 the end here. Do you believe that he suffered from  
11 obsessive-compulsive disorder prior to his  
12 employment with Christy's?

13 A.               Yes.

14 Q.               Did Mr. Whalon ever tell you that he told  
15 anyone at Christy's Market he suffered from any of  
16 these mental health conditions prior to his  
17 termination?

18 A.               Can't answer that. I don't know.

19 Q.               You have discussed, and we have now your  
20 records for psychotherapy counseling that you  
21 provided to Mr. Whalon. We have also discussed  
22 medications that you recommended for Mr. Whalon.  
23 And I gather, although we didn't ask this, you  
24 ultimately prescribed medications directly for Mr.

1 go up and down, have extreme periods of agitation  
2 when he can't function, and then hopefully, he'll  
3 be stable for a period of time. (Witness  
4 indicating.)

5 Q. And is that type of movement characteristic  
6 of bipolar --

7 A. Yes.

8 Q. -- disorder? In your counseling of Mr.  
9 Whalon, has he indicated to you whether he has  
10 discussed his mental health condition with  
11 individuals other than physicians?

12 A. I don't think so.

13 MR. COLOMB: I am going to ask Mr. Kielty to  
14 mark our last document.

15 (Defendant's Exhibit No. 10 was marked for  
16 identification.)

17 BY MR. COLOMB:

18 Q. I am going to ask you if you recognize this  
19 document, which has been marked as Exhibit 10?

20 A. I do.

21 Q. And it appears to be a letter that you  
22 wrote; is that correct?

23 A. Yes.

24 Q. And is it dated September 12th?

1 A. Yes.

2 Q. And did you write the letter on September  
3 12, 2002?

4 A. Well, that's when it was typed.

5 Q. I'm sorry. I don't mean to be that --  
6 would you agree that on or about close to September  
7 12th --

8 A. Uh-huh. (Indicates affirmatively).

9 Q. -- you composed the letter?

10 A. Yes.

11 Q. And is your signature on the letter?

12 A. Yes.

13 Q. And the letter is addressed to Mr. Whalon's  
14 attorney?

15 A. Yes, it is.

16 Q. How did you come to write this letter?

17 A. Because Mike had hired an -- had hired Mr.  
18 Scott as an attorney because he felt he had a case  
19 against Christy's.

20 Q. I would direct your attention to the third  
21 paragraph, which begins "However," and I would just  
22 ask you to read that paragraph to yourself for a  
23 moment?

24 A. I did just now.